

**V. EVIDENTIARY HEARINGS—  
SEPTEMBER 13-16 & 21, 2010  
iv. The Case of Judge Porteous**

if we have time for that one?

MR. TURLEY: My assumption is the second witness would be Judge Bodenheimer.

CHAIRMAN MC CASKILL: Okay.

(Recess.)

(6:00 p.m.)

CHAIRMAN MC CASKILL: Judge Porteous may call his first witness.

MR. SCHWARTZ: We would call Timothy Porteous.  
Whereupon,

TIMOTHY A. PORTEOUS  
was called as a witness and, having first been duly sworn, was examined and testified as follows:

CHAIRMAN MC CASKILL: Thank you. Be seated.

MR. SCHWARTZ: Thank you, Madam Chairman.

DIRECT EXAMINATION

BY MR. SCHWARTZ:

Q Mr. Porteous, my name is Daniel Schwartz. I'm one of the attorneys for Judge Porteous. Would you please state your name.

A Timothy A. Porteous.

Q And where do you reside?

A I live in Kenner, Louisiana.

Q Is that near New Orleans?

A Yes, sir.

Q Tell us a little bit about your educational background.

A I went to LSU for college. I went to LSU for law school. After law school I worked for a firm in New Orleans, and presently I'm in-house counsel for a local company.

Q In the New Orleans area?

A Yes, sir.

Q Are you related to Judge Porteous?

A Yes, sir, he's my father.

Q Tell us briefly about your family. Are you married?

A Yes, sir. I'm married to Tricia. We've been married for 11 years. We have two beautiful daughters, Mia Gabrielle, and Annabel Elizabeth, she's 5. And right now, if possible, I can get home, my wife is about 38 weeks pregnant with our third child.

Q We'll try to go through this quickly for you.

A Thank you. She would appreciate it as well.

(Laughter.)

Q Is your mother still alive?

A No, sir, she passed away in December of 2005.

Q At that point, how many years had your parents been married?

A I'll do the math. It was June 28, 1969 that they were married, so 36 years.

Q Tell us a little bit about your mother. What did she -- tell us a little bit about her as a mother.

A She was -- growing up she was my best friend. We used to sit for hours talking. That was one thing I remember and cherish as a teenager growing up, that my mom was my best friend. You know, she just -- she supported me in everything I did.

My dad, he was our coach, or my coach. My mom was my counselor. I always talked to her about anything.

Q Did your -- after you and your -- you have siblings, correct?

A Yes, I have an older brother Michael, he's 39. I'm 37. I have a younger brother, Tommy, who is 35, and then a younger sister, the queen, Katherine, who is 28.

Q I assume that the honoraria was not part of her given name?

A No, sir.

Q Just the way she is treated by the boys in the family?

A Just the way she's treated by us.

Q Very good. Did your mother, after the children grew up, did she have a particular recreational interest?

A Sure. My mom would go to the casino with my grandmother, her mom. She always told us that it was something that I knew my grandmother liked to do, I knew my mom liked to do it, and they certainly liked to do it together. She thought she was participating in an activity, towards the end of my grandmother's life, she didn't actually, I guess, realize it was towards the end of her life that she spent some time together in an activity she enjoyed.

Q How often would she go to the casino?

A Maybe, oh, once or twice a month, at the most, probably. Maybe once every two weeks.

Q And what about your father? Did he go to the casino often?

A I can't testify to often. I do know my father did go to the casino.

Q Did they go together?

A No, not in town. In town, I mean New Orleans. If they were in town, my mom would go with my grandmother.

If they happened to be out of town for a convention or something, they would certainly be together. But other than that, no.

Q Tell us about the circumstances of your mother's death.

A It was December 22, 2005. The night before she passed away, she had gone to a dinner with her girlfriends. My wife was at a dinner with her girlfriends. I had put Mia to bed and Annabel.

As typical that we would do all the time, she came home from her dinner and she and I talked for about an hour, I told her good night, and the next morning --

Q She --

A She never woke up. She had a heart attack and died the next day, yes, sir, day before her 57th birthday.

Q What did she die of?

A I believe a heart attack.

Q And how was she discovered?

A My sister, unfortunately, found her in my

home.

Q Was your mother staying at your home at that point?

A Yes, sir. It was after Katrina, their house was destroyed. My father was living in Houma, Louisiana, where the courthouse was relocated at the time. And because my mom absolutely adored my children, she wanted to be no other place but my house, and she was staying with us. That's where she died.

Q Had the Katrina hurricane had any other impact on your family?

A It had a tremendous impact on us. It separated the entire family. My -- including my wife and I, as far as she was still staying in Baton Rouge at the time with our two children, and I had come back to New Orleans to continue working at the law firm I was at.

My brother was displaced, my older brother was displaced into Texas. My parents were living -- we were all just living separate. And in fact, their family home -- our family home since 1977 was destroyed.

Q Destroyed by the hurricane?

A Yes, sir.

Q And that hurricane was, what, about four months earlier?

A It was -- well, the hurricane hit New Orleans August 29, 2005.

Q And then your mother passed away in December of 2005?

A That's correct.

Q What -- you said that your family home had been destroyed. What happened?

A I was -- I was fortunate enough to go back home just a day or two after Katrina had hit the city. While I had stopped at my house, I always went to my parents' house, so I had seen is relatively -- within a day or two after Katrina hit. A tornado, it happened, it ripped off the roof on the left side of the house, which ended up destroying the entire left side of the house.

Subsequently, because of the destruction to the left side, it ended up destroying the right side as well, so the house had to be completely redone, the entire home.

Q And was that going on at the time your mother died?

A Yes, sir, they were in the process -- I don't know if rebuilding had been done yet, but I



know they were in the process of plans. And I remember the entire family participated in just gutting the entire house, as far as throwing all of -- just the remains out that was left in the house after Katrina, at a couple months.

Q Let me step back to another series of events. Did you become aware that your parents had declared bankruptcy?

A Yes, sir.

Q How did you become aware of that?

A Okay. I'm assuming you realize it's five years before or sometime in the early part of 2000, 2001.

Q Yes.

A My older brother Michael -- someone had told Michael, and I don't know who that person was, that they heard our parents had filed for bankruptcy. So naturally he called my brother and I -- my other brother, Tommy. So he called Tommy and I, and he said have you heard about mom and dad filing bankruptcy? And of course we said no.

So Tommy and I then made a conference call to my dad at his office, and he said why don't you come on in. So Tommy and I went in and talked to my dad. He then told us that --

MR. SCHIFF: Madam Chair, if the witness is going to be asked to recite statements made by Judge Porteous for the truth of the matter, we would object as hearsay.

MR. SCHWARTZ: First of all, this isn't hearsay. This is information that he has heard. So it's testimony --

CHAIRMAN MC CASKILL: It's still hearsay. That makes it hearsay.

MR. TURLEY: Madam Chair, they have been soliciting this very type of testimony all the way through their case-in-chief of things that were stated by others. This is the first time we've been told we're going to follow the hearsay rule at this juncture.

CHAIRMAN MC CASKILL: If this is discussion by Judge Porteous himself, since he would be, I think, loosely considered a party opponent, I think we will allow any of what this witness heard directly from Judge Porteous as part of his testimony.

MR. SCHIFF: Madam Chair, if I could, I believe that that rule applies when it's an admission of a party opponent. Where here it is not -- where it is being offered purportedly for the

truth of the matter, it is not offered by a party opponent. It is offered as hearsay for the truth of the matter.

CHAIRMAN MC CASKILL: Technically you're right, Counselor. But as I've said before, we have not strictly gone by the Rules of Evidence in this hearing on either side. And if this involves things that Judge Porteous said, I think the Senators are going to be able to sort out the source of the information, and we're going to be able to give it appropriate weight and credibility.

So I -- I think it's -- we're going to give broad latitude when it comes to any witnesses, whether it's documents that Judge Porteous executed or whether it's statements that Judge Porteous made.

MR. SCHIFF: And I won't belabor it any further, except to say, Madam Chair, when the -- when the witness is here and able to testify for himself as to these very events, it's all the more, I think, significant to allow this particular hearsay.

MR. TURLEY: Madam Chair, I'll just simply note that the House just relieved Mr. Reynolds and instead brought in Mr. Goyeneche, where this issue was raised, the very same issue that was just raised

by the House. And we appreciate the court's --

CHAIRMAN MC CASKILL: Didn't you just relieve Mr. Reynolds also?

MR. TURLEY: Yes. But we weren't the ones soliciting that testimony. What I'm saying is, I appreciate the --

CHAIRMAN MC CASKILL: Okay. The ruling has been made. We're going to give broad latitude for information concerning statements made by Judge Porteous.

Certainly, this witness is subject to cross-examination, and certainly, I think there is an opportunity for the House team to undermine any credibility you would like to try to do so on cross-examination.

But I think we have to give broad latitude. As I said, the Senators are going to be able to sort out what they're going to give more weight to and what they're not going to give more weight to. Thank you.

MR. SCHWARTZ: Thank you, Madam Chairman.

BY MR. SCHWARTZ:

Q Do you remember where you were in your retelling? I believe you and your brother --

A Tommy and I, we had either been on the

phone or we went to my dad's office. He told us that yes, in fact, mom and dad had in fact filed bankruptcy.

And then in typical fashion, as I would expect, we had a family meeting at my parents' home. I believe our whole family was present. And that's when my mom and dad had told us that they, in fact, had filed bankruptcy and at the advice of their counsel, they had filed under a fictitious name.

I don't -- I think it was right before or right after the Times-Picayune had printed the bankruptcies in the paper.

Q Did they explain to you why they had done that?

A The fictitious name?

Q Yes.

A First and foremost, they had indicated to me -- or indicated to us, I should say, that they were tremendously embarrassed and they were really looking out for the children first and foremost.

Q I'm sorry, what did you say about the children again?

A They were tremendously embarrassed and for us, you know, they could probably handle themselves, but they were more concerned about us, their

children, as they always have been their whole life.

Q From your observation, what impact did these series of events, the bankruptcy, your mother's death, Katrina, have on your father?

A It -- my whole life, my father has been involved in our lives from the get-go. He has -- he was my first coach when I was 7 years old for -- the team happened to be the Washington Redskins. He was my coach throughout the play around ball. He was -- even though he wasn't my coach in high school, he was always at all of my games, brought me all over town, even when I probably wasn't good enough to make the team, he still believed in me.

He supported all four of his children throughout our high school, college careers, law school, whatever endeavors we took on.

After we had -- myself, my wife and I, when we had two children, his grandchildren were the light of his life. There was no other grandchildren on this earth that were more special.

And after Katrina and my mom's passing, he just became isolated, he stayed to himself. He was extremely depressed and just didn't really have a significant role anymore in our lives. Just --

Q To your knowledge, did he seek any

counseling, professional counseling?

A Yes. I certainly can't give you the dates, but I believe it was within a few months, so it would be the early part of 2006 that he sought counseling after my mother had passed away.

Q At some point in that period, did he inform you that he had changed his life in any way?

A During the same time, and I -- I saw it because he just was so depressed, he was living with my wife and I, because his home was still being rebuilt. And I remember the night only because it was my older brother's birthday, but that evening at home, we were sitting out by my back porch, and he told my wife and I, I'm not -- I believe my sister was present, but he told us that he was quitting drinking.

And I was -- I was delighted.

Q To your knowledge, had he stopped gambling at that point?

A I'm sorry, can you repeat that question?

Q To your knowledge, had your father stopped gambling at that point?

A Yes, sir. To my knowledge, I believe that's the case.

Q Do you know when he stopped that?

A I certainly know -- or I believe, I should say, that he had stopped gambling prior to that, prior to Katrina, even.

Q Let me go back to the bankruptcy filing for a minute.

A Yes, sir.

Q Did your parents tell you why they had not disclosed to you earlier about their bankruptcy?

A No, they did not.

Q And what -- after you were informed, what happened? Was there a story in the paper?

A I mean, there's a story in the paper every month about my family, for years. So yeah.

Q Was there a story about the bankruptcy?

A Of course. Yeah, there's a story all the time about the bankruptcy. And there was, of course, a story, which gave all the details of the bankruptcy that was printed in the court documents, is when we really got a full grasp of the bankruptcy proceedings.

Q But there hadn't been a story in the paper before you were informed by your parents?

A No, sir.

Q About the bankruptcy, I mean.

A No, sir.



Q Let me talk about some of your family friends.

A Sure.

Q Do you know two people named Jake Amato and Bob Creely?

A Yes, sir.

Q How do you know them?

A I've known them since as long as I can remember. I can elaborate if you'd like. I have known Jake and Bob forever. I can't even tell you the first time I met them because I was so young. But as a young child, up into my teenage years, I always went fishing with uncle Jake and uncle Bob. It's what we did. We went to Delacroix, we went into DQ, we would stay up and have the greatest times of our lives, laughing, probably hearing stories I shouldn't hear as a young child. And then Jake -- Bob -- Jake never went fishing. Bob taught me to fish, and once we fished, uncle Jake would -- he taught us to cook.

Q Was it just you -- who else was in --

A No, Tommy, my younger brother, also went, obviously along with our father. And Jake's -- one of Jake's sons used to go a lot with us as well.

Q And tell us about Don Gardner. Did you

know Don Gardner?

A Very well. Don Gardner, I really don't remember -- again, Don -- Don is another one, I can't tell you the first time because I was just so young, but I likened Don to a surrogate godfather to our whole family. He's just been the person my family, it seems like they always turned to. When Katherine was born on February 18, 1981, my parents looked to Don to pick us up from school, "us" being the children, because that's just who they turned to. At the time I was only 8, Tommy was 6, Michael was 10.

Q How about Lenny Levenson? Did you know him?

A I do. He's one of the coolest guys I've ever met. Really just the neatest guy, you know. I've always -- hey, it's always been hey, Lenny. I just loved hearing his stories. Family vacations with him.

I remember one year my brother got Green Eggs and Ham from the Levensons, and I remember that they were on a trip one year, and the adults were all in a room, and I say the adults, my parents, the Levensons and some other people, and my brother read Green Eggs and Ham to their son in the bedroom for

hours, just so the parents could have their time. So they remembered that when he graduated, I believe it was high school, I'm not exactly sure, but I just remember that.

Q Now, at some point along that relationship, your father became a judge; is that correct?

A State or federal?

Q Any kind of a judge.

A He became a state judge in 1984 and federal judge in 1994, yes, sir.

Q And Mr. Levenson and Mr. Gardner, Mr. Amato and Mr. Creely, they remained lawyers who sometimes appeared before him?

A Yes, sir. They have always been lawyers, but I have never -- except in our professional careers, never looked at them as lawyers. Have never -- it's never been a lawyer/judge relationship with us, ever. Still never think of them -- excuse me, I've never thought of them as that because I consider them more like family, hence why I consider Don Gardner like a surrogate godfather, uncle Jake and uncle Bob. It's never been anything but a best friend, family relationship.

Q Did your relationship change when your

father became either a state or federal judge?

A No, absolutely not. I wouldn't have thought it would.

Q Now, at some point, you had a bachelor party?

A I did.

Q Where was that bachelor party?

A Las Vegas.

Q Who came to the bachelor party?

A About 30 guys.

Q Did they include some of the people I just mentioned?

A Oh, yes, sir. And it was my father, uncles, family friends, my friends from college, high school, brothers.

Q Do you know who paid for the bachelor party?

A I did not. It was my bachelor party. I remember staying in my friend's room, and I could have offered them all the money in the world, they wouldn't have taken it from me.

Q At some point, you had a big dinner?

A Yes, sir.

Q And everybody -- everybody came who was --

A I believe just about every single person

in the bachelor party went to that dinner.

Q Okay. And who paid for that?

A It's actually kind of a strange story, but once the dinner was over, really one of my closest friends had grabbed the bill. And I couldn't even believe he was taking the bill. And he started adding up the total, and he came up with a total, whatever it happened to be, and he said okay, everybody, this is your portion.

And then people just started throwing money up left and right. Everybody was paying.

Q Was Bob Creely there at the bachelor party?

A Yes, sir.

Q Was Don Gardner?

A Yes, sir.

Q Were they there because they were lawyers who sometimes appeared before your father?

A No, no.

Q Why were they there?

A I will -- they were there because of me and my family and our relationships. And I would have expected them to be there.

Q After that dinner, did you all go to a strip joint?

A Yes, sir.

Q And did your friends buy you a lap dance?

A They did.

Q This was a bachelor party?

A This was a bachelor party.

Q Your wife knows about this?

A She absolutely knows about it, and knew about it, I think, the next day. She was asking what we did, and I said we went to dinner and went to a strip club. She probably made a lewd comment. She knew that it was a bachelor party and they would buy me lap dances, yeah.

Q Was your dad at the strip joint?

A Yes, sir.

Q And you saw him there?

A Uh-huh.

Q Did he get a lap dance?

A Not to my knowledge.

Q At some point, you had an externship here in Washington; is that correct?

A I did.

Q Do you remember when that was?

A I believe it was the summer of 1994, with Senator Breaux.

Q How were your expenses paid at that?

A Other than receiving a small payment for the time that I was here, some people had sponsored my trip.

Q And what people were those?

A I know for a fact, only because I remember the conversation my dad had had, that he came home and said Bob and uncle Jake gave you some money, and they said to have a great time and enjoy the experience.

Q To your understanding, that was money given to you?

A It was given to me.

Q And did you ever think that was done to have influence over your dad?

A No, absolutely not. I didn't think --

Q Why was it done?

A I mean, I -- no disrespect for my father, I thought it was done out of love for me. And I still believe to this day that it was done out of love for me.

Q Now, I know, and you've clearly expressed it here, that you have a great fondness for your father.

A Uh-huh.

Q Does that fondness in any way affect or

limit the truthfulness of what you've just testified to?

A Not at all.

MR. SCHWARTZ: Thank you.

CHAIRMAN MC CASKILL: Would anyone want to cross Mr. Porteous?

CROSS-EXAMINATION

BY MR. SCHIFF:

Q Mr. Porteous, I'll be brief in my questions. I know this is probably not a very pleasant experience for you, and I'll try to keep it short.

You've described the relationship that you and your father, and indeed your whole family, had with Mr. Amato and Mr. Creely as being a very close relationship?

A Yes, sir.

Q In fact, you considered Mr. Amato and Mr. Creely like uncles, like family really?

A Yes, sir.

Q You saw them quite frequently?

A I can't say I saw them frequently, but we definitely fished a lot as -- when I was young, 8, 9, 10, 11 years old, 12 years old. So it wasn't -- I didn't see them on a daily or weekly basis, no,



sir.

Q But these were some of your father's very closest friends?

A Yes, sir.

Q If someone represented that the relationship they had with your father was no different than any other lawyer in Gretna, that wouldn't be right, would it?

A No.

Q Because the kind of friendship that your father had with uncle Bob and uncle Jake was really quite unique, wasn't it?

A Actually, with all due respect, my dad was friends with everybody from the time that I can remember, before he was a state judge, and that's going back to '84. Always had an open door policy, and that's one thing I remember as a kid, running around the courthouse, or even when he worked in the DA's office. You know, he was friends with everybody.

He was certainly close with Bob and Jake. He was close with Don and close with Lenny. But he was close with just about everybody. Everybody loved him.

Q Everybody may have loved him, but I take

it, Mr. Porteous, that you didn't call every lawyer in Gretna uncle this and uncle that, did you?

A No, sir. I called Mike Eskajay's father, he's one of my dad's closest friends, and I've known his son since I was 5, and I called him dad. We just have a tightness that I truly mean what I say, that we are all just a big family down there. And we think of each other as family.

I've never thought of -- I've never looked at my dad as a judge, and anybody that we have talked about, say, as attorneys, because that's not how we grew up. We didn't grow up thinking oh, he's an attorney, he's a judge, we just look at each other as best friends and family.

Q And Mr. Amato and Mr. Creely were really like family to you?

A Yes, sir.

Q Did your father discuss much of his work with you?

A We never talked about work.

Q Did you know about any cases that your father had pending before him?

A No, sir. Sorry about interrupting you, Congressman. No, sir, we -- when my father walked in the door, and something I emulate today. When he

walked through that door, it was family time and family time only. We never discussed work.

Q So you wouldn't have known about any very large litigation pending in his court?

A At what -- no, sir, the answer is no.

Q And you wouldn't have known whether Mr. Amato had -- was representing one of the parties in that very large litigation?

A No, sir.

Q Or Mr. Gardner, for that matter?

A No, sir.

Q You wouldn't have known whether Mr. Amato stood to earn a lot of money from how your father decided the case?

A It wouldn't have mattered.

Q But you would not have known about that; right?

A No, sir.

Q So you wouldn't have known whether that was going on at the time of the Vegas trip?

A Wouldn't have mattered.

Q You mentioned that your father told you that he had some money for you from uncle Bob and uncle Jake for your externship; is that right?

A Yes, sir.

Q And you considered that as them giving you the money?

A I know it was given to me.

Q Well, they didn't actually give it to you, did they?

A No.

Q Were you aware that the judge's secretary called a variety of lawyers to ask them to be sponsors of your externship?

A No, sir.

Q Were you aware that's how the money came about?

A I never asked about it. If it was told that it was given by Jake or Bob, I would have -- I would have assumed that it was given to me to enjoy my time and have a great time in D.C. I wouldn't have thought anything else of it.

I certainly would have never thought that it was done because my dad was a judge and they were attorneys. It never would have crossed my mind. It doesn't cross my mind today.

Q And your father never told you that he had asked his secretary to call a bunch of people and ask them to be sponsors, did he?

A No, sir.

MR. SCHIFF: No further questions.

CHAIRMAN MC CASKILL: I assume no redirect?

MR. TURLEY: No, no redirect.

CHAIRMAN MC CASKILL: Any questions from the Senators?

SENATOR KLOBUCHAR: I have just one question, Mr. Porteous.

EXAMINATION

BY SENATOR KLOBUCHAR:

Q First of all, sorry for the loss of your mother.

A Thank you.

Q I know, as was mentioned, this must be very hard. I just had one question. Did Mr. Amato and Mr. Creely, did they come over to your house when you were growing up, if you were that close with them, did they come over for dinner?

A We -- well, not dinner, but it's not often that we ever really had anybody over for dinner.

But whenever we had parties, Bob would certainly come. That may not have been Jake's thing, but Bob would certainly come over for a party.

SENATOR KLOBUCHAR: All right, thank you.

CHAIRMAN MC CASKILL: Okay. It is 6:36.

You may be released.

THE WITNESS: Thank you, Senator.

CHAIRMAN MC CASKILL: We have no other questions of you.

(Witness excused.)

CHAIRMAN MC CASKILL: Call your next witness.

MR. TURLEY: The Porteous team would like to call Judge Bodenheimer.

CHAIRMAN MC CASKILL: This will be the last witness for the day. For my colleagues and for all the parties and the lawyers. We'll call it a day as soon as we finish with this witness.

The House has eight hours and 39 minutes remaining, Judge Porteous has 10 hours and 36 minutes remaining.

Judge, I will need you to stand.  
Whereupon,

RONALD D. BODENHEIMER  
was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. TURLEY: Thank you, Madam Chair.

DIRECT EXAMINATION

BY MR. TURLEY:

Q Judge, would you state your full name, please.

A Judge Ronald D. Bodenheimer.

Q Okay. Thank you.

I know it's been a long day, you've been out there all day, and we certainly appreciate --

A Two days, Counselor.

Q Two days. I'm doubly thankful, and I'm sure you're quite tired.

Can you tell me where you currently reside?

A Yeah. Metairie, Louisiana.

Q That's outside New Orleans?

A It's in Jefferson Parish, Louisiana, suburb of New Orleans, yes, sir.

Q How long have you lived in that area?

A My whole life. I was born in New Orleans in mid city and I moved to Jefferson Parish and lived there ever since. The difference is about four or five miles. I'm not a world traveller.

Q And how long did you serve on the courts when you were a judge?

A I was a prosecutor for about 20 years or so, and I was a judge for about three years.

Q Okay. And were you a judge in Gretna?

A Yes, sir.

Q Now, could you give me an idea about being a lawyer and a judge in an area like Gretna? Is this a small legal community?

A In -- in the prosecution on the criminal side of the law, yeah, it's a small community, where pretty much everybody knows everybody, yes.

Q When you say everybody knows everybody, was it common for lawyers and judges to grow up together?

A Yeah, to give an example, attorney by the name of Martin Reagan and I both started out, he was a young defense attorney, I was then prosecutor, and we went all the way up for the whole 20 years, we graduated from the smaller cases to the armed robberies to the homicides.

Q And so was it, in fact, common for judges to have lawyers in their courtroom that went to school with them or grew up with them?

A No, that wasn't uncommon at all.

Q Judge, what would happen if judges started to recuse themselves every time a friend or an acquaintance was arguing in their court in Gretna?

A It would be a problem in Gretna. It would -- there are some parishes in Louisiana it



would come to an outright halt.

Q Now, I know you've stated that you trusted Judge Porteous. Can you tell me why you trusted Judge Porteous?

A Judge Porteous was -- when I was -- when I was a young prosecutor, he had a little bit more of experience. And you turn -- you tend to follow the older prosecutors to learn from them.

And I've actually attended some of his trials when he was a DA in Jefferson Parish and I was a DA in New Orleans to watch him. And everybody had a lot of respect for him. He was very good in what he did, very successful in his prosecutions. And I just grew to admire him.

Plus, he and I both went to, I guess you'd call them, brother schools. He went to Cor Jesu, I went to Aloysius, they merged into Brother Martin. So we had a lot in common.

Q I see. And you mentioned that he was a prosecutor in these criminal cases. Was he better known for handling criminal cases as someone who had a lot of experience in that area?

A Yes.

Q Now, I know that in the past, the government has asked you about a statement that the

judge made to you soon after, I believe, you became a judge.

A Couple of statements, yes, sir.

Q And what year was that when you became a judge, do you recall?

A '99, I believe.

Q All right. And you recall saying something about the judge telling you that you could trust the Marcottes? Do you recall a statement like that?

A Yes, sir.

Q How did you take that statement? Was that simply a piece of friendly advice, or how did you take it?

A I took it -- Judge Porteous knew, and it was well known, that I had prosecuted bondsmen when I was a DA in New Orleans, and I never had a great relationship with bondsmen in general.

And I think it was perceived that I didn't like them. I didn't particularly like them or dislike them, but there was a perception that I disliked them.

I know that Mr. Marcotte had that perception that I disliked him because he was a bondsman. So Judge Porteous, you know, talked to me

and told me that, you know, I know you don't like bondsmen a whole lot, Ronny, but you can trust Marcotte. If he tells you something about a case, he won't lie to you. If he tells you the guy is a first offender or a fourth offender, whatever, you can take that to the bank, he'll tell you the truth.

Q Now, when you become a judge in Gretna, particularly with any type of criminal docket, can you function as a judge without dealing with bonds?

A No, you have to -- you have to -- it's one of our necessary evils, yes.

Q And were the Marcottes the dominant bonding company in Gretna?

A Oh, very much so. 90 -- I wouldn't -- 90, 95 percent, would be my guess.

Q So if you were going to do bonds, you're going to have to do them with the Marcottes, as a practical matter?

A That's correct.

Q I'm going to return to that in a second. But I want to get to a couple of more things. Now, it's my understanding that eventually you had a plea agreement dealing with the Marcottes; is that correct?

A With the federal government dealing with

the Marcotte case, that's correct, yes, sir.

Q And you left the bench during that period as well?

A Yes, sir.

Q Okay. But you were never accused of setting a bond too high or too low for the Marcottes, were you?

A I don't think so, no.

Q And did Judge Porteous ever tell you to do what the Marcottes asked?

A Not -- no. All he ever told me about the Marcottes was that he knew that I didn't really like Marcotte that much. I guess I should have added, Marcotte at that time was -- and I hate to sound like I'm prejudiced because of somebody's hair, my not having any, but he had that ponytail. And the rumor was, or the story of him, was that he was fooling with drugs.

And so I kind of stayed away from him intentionally because of that. He kind of looked like -- that Steven Seagal kind of ponytail and he walked through the thing. And the rumor was that he was doing drugs, so I stayed away from him.

And all Judge Porteous told me was that if the guy comes to you and gives you information about

a bond, you can trust him.

Q The committee will have to take judicial notice of what a Seagal ponytail looks like. I won't get into that.

But as a -- as a judge, you just stated that, you know, you had to deal with bonds, and in Gretna, you had to deal with the Marcottes, correct?

A Yes, sir.

Q Okay. Now, was Judge Porteous the type of judge that tended to take new judges under his wing and help them sort of get started?

A I don't know so much about new judges, because by the time I became a new judge, he was already gone. But I do know that even as a prosecutor, I was fairly experienced when I got there. And even then he took me under his wing to teach me some of the nuances that I might have had in New Orleans that didn't apply in Jefferson Parish or that were not as effective in Jefferson Parish. There is a difference.

Q I want to get to another statement that I'm sure you are familiar with, because it's been cited a great deal in this case, about never having to buy lunch. Do you recall that statement?

A Yes, sir.

Q All right.

A Yes.

Q Now, that statement is oft repeated by the House. Was Judge Porteous serious about that statement? Or how was that statement meant when he told you?

A Counselor, I mean, I can't tell you what was in his mind per se. But the statement that he made about -- the statements that I can recall are that you might as well forget your name because you'll be known as judge for the rest of your life. You'll never have to, you know, buy lunch again, and there was something that -- apparently that I said that I don't recall saying about you better -- they're going to be kissing your butt a lot.

You know, Porteous has a wit, and in those particular statements, obviously, never -- I obviously didn't go home and wash my butt because he said so. I thought it was a funny statement that he was making, yes.

Q He said that, he said this where? Where were you when he made that comment?

A We were at the -- to my recollection, we were at the same party, it was a function at, I think, a space called The Balcony. It was not a

fundraiser per se, but it was some sort of congratulatory party for a group of elected officials, a brother who was the assessor, a daughter -- or sister who was a judge. And they were having a thing for the Chehardies. And it was at that particular function.

The thing with Marcotte I took more serious, because that's something that he and I were talking about alone, and when he said that to me, it was more serious. The other stuff was said in front of other people.

Q So, you know, I want to make sure I understand this, because it's hard to get the idea from -- when it's quoted.

This was, you said, at a party. Now, did he pull you aside and say, you know, Ron, you'll never buy lunch again? Or was this in front of other people?

A This was in front of other people. It was said as a quip.

Q Did he say it in a low voice in front of those people?

A No. He said it for everybody to hear.

Q Did other people laugh?

A Uh-huh, yeah.

Q And the remark about kissing your derriere, was that also a laugh line?

A Yes.

Q And was this typical of Judge Porteous?

A Yes.

Q Now, did Judge Porteous ever make any statement to you about the Marcottes other than that earlier quip I mentioned to you?

A Not that I can recall. I mean, I'm sure that we had conversations when he was a judge and I was a DA about different -- you know, there's gossip in the courthouse all the time about all kinds of different things, and I'm sure we've probably talked about him before. But I can't recall any conversations.

Q As a federal judge, did he ever speak to you about the Marcottes?

A No, sir. No, sir.

Q Now, prior to the judge mentioning the Marcottes to you, did -- hadn't you already set a few bonds or split or reduced bonds, or had you not?

A I wouldn't call it in the time frame -- I think I was so new at that time, I'm not even sure I had -- there was a period of time between the election and the time you actually begin to sit.



And I'm not sure if I was even sitting yet when this party was. I have to check the dates. I really don't recall that.

Q After he made that short comment to you, did you feel pressured to do bonds with the Marcottes?

A It didn't take long before you felt pressured to do bonds because of a federal court decree that said if you didn't do the bonds, they were going to release them with no bonds. So you did have pressure.

And since Marcotte was doing the lion's share of the bonds, you did have to deal with him. But I didn't feel pressure from what I was told by Judge Porteous, no.

Q All right. So let's break that up because that seems a pretty significant point, that the statement itself, you didn't feel any pressure to do bonds with the Marcottes, it was the realities of Gretna?

A Yeah, right. What I took from Judge Porteous was him telling me, Ronny, listen, I know you don't like Marcotte, but I'm telling you, I've dealt with him in the past, he's not going to lie to you about bond information. That's what I took it

to mean.

Q And the reality of Gretna you described as this court order, can you tell the committee what the reality was like in Gretna, in terms of overcrowding and how that affected your job as a judge?

A Yeah, we were under a court order, I can't give you the exact specifics as to how many, but the jail was always full. So pretty much every time you arrested one guy, another guy got out.

So we had -- we actually came up with a system called the code 6, meaning that 6 percent of the people commit 90 percent of the crime. And we had a scale of 1 to 20. And the scale was whether or not it was a victim -- victim crime or victimless crime, whether or not it was a crime of violence, whether a weapon was used, whether the guy had prior felony convictions, and you rated them. And the higher they were, the more dangerous they were perceived.

And the jail was under orders to start releasing the ones, and then when there was no more, the 2s, 3s, 4s, 5s, all the way up to 17s and 19s. Sometimes there were people as bad as multiple burglars or armed robbers that were released

strictly on overcrowding. It happened, because there was a lot of people behind them who were murderers or charged with murder or whatever, so you just had to release them.

Q And did many judges view bonds as a way of dealing with that problem of people that were committing new crimes or disappearing?

A When I was a prosecutor, and I wasn't privy to them, but there were a lot of times, like when I went looking for my supervisor, I'd be told he's in a meeting with the judges and the sheriff's office trying to do something about the overcrowding situation.

So I know they had a lot of meetings about that. And eventually, you know, this concept of split bonds became, you know, popular. And to my knowledge, all of -- there were 16 judges. All of them used this split bond concept.

Q And did many judges talk about the value of bonds and getting people to come back to court and not disappearing?

A Uh-huh, yes.

Q And in your experience as a prosecutor and a judge, was it much more likely that you would see someone again if they were released under a bond as

opposed to their own recognizance?

A Yeah, if they were released under a bond, even small bond, Bail Bonds Unlimited, which was Marcotte's company, had a group of bail -- you know, bail bounty guys that were on salary, and they would go look for somebody if, in fact, the bond was about to be forfeited.

If you released them for overcrowding, with all due respect, nobody looked for them, law enforcement would just wait for them to run a red light or commit another crime and get arrested and then the open attachment would be found and they would bring them back in, but nobody actively sought them.

Q Now, Judge, I wanted to get an idea of this. So the -- in Gretna at that time, you had judges who were watching a large number of people mandatorily released, and then they would not come back to their courtroom; correct?

A Oh, yeah. It was common when you were calling your docket that a good -- a fair percentage would not show up, and the majorities of those that did not show up were ones who had been released because of overcrowding.

Q And is it true, then, as you mentioned

earlier, you sort of alluded to it, that judges would talk about bonds as a way of guaranteeing the return?

A There was a bunch of different ideas that were bandied about over the time that I was there. But eventually, you know, the bonds and the split bonds were seen as the best solution.

Q And if they were seen as the best solution and you didn't use the Marcottes, how much of a solution would that be if you couldn't use -- if you didn't work with the Marcottes to issue bonds?

A Very little. You know, Marcotte was not the only bond company for which bonds were split. They were split for the other companies too. But Louis Marcotte, you know, for better or worse, was very, very aggressive of having his people catch the people going in, while they were in, and coming out of jail. He just -- he was always on top of it.

He went and got a jail sheet, I mean, every hour on the hour and started calling the people to see if he could work their bond. That was his forte.

Q Now, you mentioned split bonds. And for people that aren't familiar with bonds, a split bond can seem sinister. Can you explain what a split

bond is?

A Yes, a split bond -- there's several different kinds of bonds in Louisiana. There's cash or commercial, this is a bonding company. There's property bonds. There are cash bonds. There are personal surety bonds and there are personal bonds.

And a split bond means one or more, a combination of one or more of those five.

Generally, it's a commercial bond with a personal surety or a commercial bond with a personal bond undertaking.

Q So sometimes if someone couldn't afford a bond, for example, you could have like a mother come in and say I'm going to put my house up for part -- to support part of the bond?

A Yeah. But see, like it was different. In New Orleans, if you put your house up, you had to jump through a lot of hoops. You had to go to the recorder of mortgages and recorder of conveyances and see how much the house was appraised at by the assessor, how much was still owed on it, what was its equity, and you had to have certificates for all of this stuff.

In Jefferson, if you had a house and it was just more informal, if you had a house, you'd

ask the mama, how much did you pay for this house, how much do you still owe on it, okay, I'm going to give you credit for this much equity in that particular house.

Q And did most judges split bonds in Gretna?

A All of them. All 16 of them did.

Q As a practical matter, didn't you sort of have to split bonds in that environment?

A You never had to, but one, it was more effective, and two, this is my own personal opinion and that there were political reasons to split, rather than -- than to reduce.

If a guy had a \$50,000 bond and you reduced it and he got out and committed some, you know, high profile crime, then you would have the media going after the judge, why did you reduce the bond. If they split it, they couldn't go after the judge, because you could say I didn't reduce anything, the bond was 50,000, I made him put up 50,000, I didn't do anything. So I think there were political reasons to do it too.

Q All judges chose to split bonds for their own political issue, status?

A All 16 of them, Counselor.

Q Isn't it true, Judge, sometimes a bond is

set artificially high when a case first comes in the system but then a judge decides that the bond was too high and they could -- they could do a split bond to make it more fair?

A I think that that happens, but I don't think it's -- I just would not agree that it's set artificially high to begin with. Somebody may set it high because that was their opinion, and it might be out of line and you'd have to adjust it. Just like somebody might set it too low and you'd have to adjust it.

I don't think there was any order for doing that, but I do think that sometimes in the beginning, they were set too high or too low, sometimes because of a lack of information about the particular crime.

Q And sometimes was it set too high because the original crime was more serious than what the person ultimately was held over for?

A Well, sure. Sometimes -- like you might get an aggravated arson, which means a fire where human life was endangered, and then when you finally get the police report in, you find out that the guy set fire to his own trash can in front of his house so he could light fireworks for New Year's. Well,



then you'd realize, wait, this is not aggravated arson, so instead of a \$100,000 bond, I'm going to reduce this to 10,000 because of these new facts.

Q Now, was Judge Porteous often publicly talking about the value of bonds with lawyers and judges?

A Yes.

Q And did he believe that in that environment you just described, that bonds were important to deal with those problems?

A Yes.

Q Was he the only one that had that view?

A I don't think he was the only one, but if I had to define it, I think Porteous was the lead judge to find the solution to the overcrowding and the bond problem.

Q Judge, I know that you entered the bench later. I'm going to ask you about what your recollection was in term of the bond traffic. But Gretna had a fairly high traffic level of bonds, didn't it, through the courthouse?

A You mean people getting arrested and needing bonds? Yes.

Q In fact, isn't it true that for prosecutors over in New Orleans, a lot of them

actually wanted to go to Gretna because it had a bigger criminal docket, you could get more experience over there?

A Oh no.

Q No?

A No, you got a whole lot more experience in New Orleans.

Q Oh, really?

A No, New Orleans had a higher crime rate. New Orleans Criminal District Court the judges did, because I worked there for six years, they did nothing but criminal cases every day. They never did a civil case. They never did a domestic case. That's all they did, was murder, rapes and robberies and five days a week, or as the kids say, 24/7.

In Jefferson Parish, you probably spent about 40 to 50 percent of your time on criminal, and the other 40 or 50 percent on domestic and civil.

Q Okay.

A So no, they wanted to come to Jefferson for a break, not because it was more experience. You got more experience in New Orleans.

Q Oh, is that right?

A Yes, sir.

Q Let me try to understand another

difference in between Gretna and New Orleans. In Gretna, wasn't there a magistrate who was appointed by rotation for part of that -- the period that Judge Porteous was on the court, that there was often a magistrate judge who was picked, you know, by rotation?

A Yeah, it was called the duty judge, yes.

Q And that was for one week at a time?

A Yes.

Q Now, is it true that some judges just didn't like that duty?

A Yes, that would be a fair statement. Most of the judges didn't like that duty.

Q Not just a fair statement but an understatement?

A Understatement. I don't think any of them liked it. There were some who did it, some who were diligent about doing it, and some who just didn't do it.

Q When you say "didn't do it," they just weren't available when people needed the magistrate judge?

A You had a magistrate phone, which was supposed to be with you 24 hours when you were on duty, 24 hours for every day that you were on duty.

It was given to the sheriff's office to call you for bonds, it was also given to the sheriff's office to call you for search warrants or arrest warrants.

And it was not uncommon for some judge, and I hope you aren't going to ask me names, but some judges wouldn't answer that phone, not even if another judge called, they wouldn't answer the home phone, they wouldn't answer the magistrate phone, they wouldn't answer anything, and they just basically disappeared when it was their duty week.

Q I won't ask names.

A So a detective would have to find another judge who was willing to do it when it wasn't his duty day.

Q And I won't ask you to name them, but did some judges just have that reputation that when they were the magistrate judge, you pretty much knew you weren't going to be able to get that judge?

A Yes.

Q And did all the businesses stop in Gretna, just waited for that week to end until a new judge came, or did the bondsmen go and find a judge who would sign?

A Bondsman would go find a judge who wouldn't mind signing something on his or her

nonduty day.

Q Practically, could you stop for a week? In Gretna could you stop issuing bonds while that judge was the designated judge?

A No. Business went on, as usual. You know, it had to be done.

Q I'm going to show you a demonstrative, because I'm like to get your understanding of how many bonds were often signed in Gretna. First I'd like to ask you a question, would you be surprised to know, for example, in 1986, that indeed in one year, there was an estimated 3200 bonds that went through Gretna?

A In a whole year, 3200? That wouldn't surprise me at all.

Q In fact, you seem to think that the number would be higher, is that what I'm getting?

A I would have thought it would have been higher, yeah.

Q Now, I don't know about you, but I wouldn't be able to see this from there. But there's a screen right there, if --

A I can actually see it better from here.

Q You're a better man than I, I must say. If you take a look here, this is a demonstrative of

the bonds signed by Judge Porteous in his last month as a state judge. And this is October 1994.

A Right.

Q In fact, if you take a look, down in the 28th of October, you'll see a notation that says, "Judge Porteous sworn in to federal bench."

Do you see that?

A Yes.

Q Now, I'm going to represent to you that in that last month, Judge Porteous signed 29 bonds total for the entire month. Would you view that as a high number of bonds?

A No, very low.

Q And it's very low because most judges would have a greater traffic of bonds in Gretna because of these problems you described?

A It would depend on whether that judge was on duty or not. But there would be -- there would be an opportunity to sign a lot more bonds than that, yes.

Q So when you look at 29 bonds in one month, you would view that as a relatively light to average month, at best?

A You know, in my experience, that would have been a light month.

Q Now, when you were talking about split bonds, and I appreciate you sort of explaining how that worked, was it -- is it clear in your view, then, split bonds served a public purpose?

A It served a public purpose in -- if you factor in the fact -- the court order -- yeah, the federal judge's order that we had to either release somebody or we couldn't bring somebody else into the jail.

When you factor in the overcrowding, then the split bonds is definitely a policy for good, because other than that, you've got to stop making arrests.

As it was, the sheriff's office would have to come to us and give us a heads up that they were doing like a narcotics roundup or a prostitution sting or whatever, they would have to give us a heads up so they could start looking to see who was going to be released so we can make room for the new arrestees.

Q I see. And you were describing that those new arrestees often resulted in new releasees, right, when you had an arrestee in an overcrowded system, it often produced a releasee?

A Right. I would venture to say -- the

numbers were astronomical of the people who were released for overcrowding. It was astronomical.

Q And you said earlier that they got more and more dangerous as overcrowding got more serious?

A Well, it's not as it got more and more serious. But when the overcrowding was its worst and you had to start releasing people, after you released your 1s through 5s, you started releasing your 5 through 10s, you started releasing some people that probably should have been kept in jail. You started releasing some bad folks.

Q Now, during your time as a district attorney, I guess as an assistant district attorney.

A Right.

Q Did you have occasion to work in Judge Porteous's courtroom?

A I was -- I was assigned to his court as the DA assigned to his court I'm guessing about 18 months, maybe two years. And then I became a supervisor, and I had supervisory duties over his court and the DA -- the assistant DA who worked in his court. And I was also a special prosecutor. The last 10 years or so, I did pretty much all high-profile and homicide cases. And if one of my homicide cases fell to his court, then I would go



into that court and prosecute that case.

Q And in that time, as a prosecutor, had you ever known Judge Porteous to improperly set a bond?

A To do what?

Q To improperly set a bond.

A No, Counselor. But I'll be honest with you, the DA who is in his court is not really involved in the day-to-day operations of setting the bonds. That's usually done in the morning by the magistrate before we ever get there.

Q Fine enough.

A Now, if a defense attorney would file a motion to reduce a bond, we might get involved. Or if the police came to us and said, hey, this guy got a low bond and he's a bad apple, would you -- we'd file a motion to increase it.

But that was a rare event.

Q Judge, let me ask you about that. You said sometimes as a prosecutor, you could get involved in the bond.

A Right.

Q I expect that's not a lot of times. But as a prosecutor, would there be some cases where you didn't want to see someone bonded out?

A Uh-huh, yeah.

Q And when you had those cases, would you just make that view known to the judge, like Judge Porteous?

A You'd file a motion to increase the bond. And then it would go to a hearing. The defendant and his attorney would be notified, and then you'd put on your evidence as to why the bond should be increased.

Q And did -- did judges normally follow the advice of the prosecutors if they opposed a bond, they generally wouldn't issue the bond? I mean, if there was opposition?

A No, in state court, unless it was a homicide, you had to give a bond. The only -- the only -- excuse me. The only charge that you could hold with no bond was first-degree murder. Even second-degree murder, you had to give them a bond.

Our job as prosecutors was to make that bond so high that for all practical purposes, the defendant couldn't get out of jail and it had the same effect of no bond. But you had to give them the bond.

Q That's an interesting point, Judge. So for some offenses, you had to give a bond?

A Almost all, except first-degree murder.

Q So you couldn't deal with those cases without dealing with a bondsman, in the sense of a bond being part of the case?

A Well, you'd have to set the bond and then it would be up to the defendant to try to get a bondsman to make that particular bond. But he had to have a bond in everything from second-degree murder on down.

Q Now, let's talk about Louis Marcotte. I want to do one follow-up. Putting aside the ponytail, did you ever know Marcotte to actually lie to you about a bond?

A No. It was true, every -- whatever he told me about a particular defendant, and I would check, I believe I would say I would check every time. The information he gave me, I would call the jail and verify it, and I never, ever caught him in a lie.

Q But you would just go ahead and you'd check for your own satisfaction?

A Well, of course. Of course.

Q And by the way, when bondsmen lie about bonds, what happens to them as bondsmen in a small, you know, courthouse like Gretna?

A I'll turn into one of those judges that

can't be found by him. I'm not going to deal with him again.

Q So for bondsmen, it's very, very important to not -- to sort of get it right so that judges would be more receptive to the next bond; right?

A Correct.

Q Because isn't that called burning a judge, that if you burn a judge on a bond, he's probably -- he's probably not going to give you a new bond?

A Exactly. And he's going to tell the other judges that he's close to what you did. So you can have problems if you lie to a judge.

Q Now, I'm going to ask one follow-up question about being a federal judge. You know, from the time he became a federal judge, did Judge Porteous ever use his office to pressure you to work with the Marcottes or to issue any bonds?

A No, no. The only time I saw -- I never saw Judge Porteous again when he became a federal judge, except when he was lecturing at state functions. And he -- you know, he and I and a few other guys would usually sit outside for most of the lectures because we had been around so long, they were trying to lecture to maybe the newer prosecutors, and was stuff we had been through so

many times, we'd usually sit out in the front and either tell jokes, war stories and drink coffee.

Q Let me ask you about another thing, let's get off the bonds for a second, and thank you very much for that.

I want to ask you about curatorships, because that's another thing most people don't deal with a lot.

A Right.

Q But did judges in Gretna deal with curatorships a lot?

A I wouldn't say a lot, but there are -- anybody whose house is going to be foreclosed on and sold has to -- you have to be found. And since the majority of them when they lose their house, they leave, you have to appoint a curator to look for them. So it's a fair number.

Q And when you say fair, was it a routine matter to deal with curatorships, I don't know what the numbers are, but most judges had to deal with curatorships?

A You did some every month. My best guess was you probably averaged between five and 10 a month.

Q I see. Was it also common in Gretna for

judges to give curatorships to people they know and close friends?

A It was -- that was one -- one way to do it. Some of the judges had a wheel with all of the attorneys that they wanted to give curators, some of the judges only give them to a select few people.

Q Was it only because they were friends or did some judges just want to give these curatorships to people that they knew would take care of them?

A I think it was a little bit of both. I seen -- in fact, in my court, I gave one to an attorney who was going through a bad period to try to let that attorney make a few dollars to get his practice -- and he never did what he was supposed to do, it came time to sell the house, it wasn't done, I had to yank it back and give it to an attorney I knew would handle it to get it done.

So if the attorney neglected what you appointed him to do in a curatorship, while it was a routine, mundane thing, if they didn't do what they were supposed to do, it could have some serious consequences for the creditors.

Q And, in fact, you assigned curatorships to your former partner, did you not?

A A lot of them. Not all, but a lot of

them, yes.

Q To be fair, most curatorships were not that complex, it didn't take Einstein to deal legally with a curatorship?

A Most of them -- most of them were mundane, but you still had to go through and cross the T's and dot the I's.

Q Now, you talked to us about Gretna, people growing up together in Gretna with judges and lawyers. Was it also common for lawyers to drop off gifts with judges?

A During Christmas or some other special time. Like I had a child while I was a judge, and a lot of lawyers came down with, you know, booties and little baby stuff and stuff like that, or during Christmas we got a lot of presents, yes.

Q And did all the judges tend to get, you know, those types of gifts?

A Yeah, whatever -- when a lawyer gave a gift, he would send, you know, 16 bottles of Jack Daniels to 16 judges or 16, you know, boxes of candy, whatever it was. Most of them sent it to all of them.

I don't think there was any attorneys that said well, I'm going to send it to this judge I

like, this one I don't. You sent it to all of them.

Q In fact, wasn't the common practice to send it to all judges so nobody would be insulted; right? You didn't say I'm going to go with these 14 and leave these two out?

A I would think that was true, yes.

Q Okay. And the Marcottes commonly gave gifts to judges?

A Yes.

Q Did you ever go on a trip with the Marcottes?

A Yes.

Q And do you recall who else attended that trip?

A I can think of two of them offhand. One was at the Beau Rivage. I don't -- there was a couple of other judges there. To be honest with you, I can't recall who it is now. And there was one that was a fishing trip, and that was -- I was there, there was a judge from St. Bernard, the sheriff from Jefferson Parish and the sheriff from St. Bernard, were all there.

Q Was the Jefferson Parish sheriff Harry Lee?

A Harry Lee, yes, sir.



Q And once again, in terms of that community, was it common for lawyers to go out to lunch with judges?

A It was very common.

Q And was it common for them to buy lunch for judges?

A It was very common, yes.

Q Just lunch or sometimes dinners?

A Mostly lunch but sometimes dinners, especially if you worked late.

Q What percentage of those meals do you think lawyers bought for the judges?

A When it was judges and lawyers together?

Q Yeah.

A I'm guessing probably about 100 percent.

Q So can you remember a case where a judge actually bought a meal when they were having a meal with lawyers?

A Yeah, I mean, I -- I can tell you that once or twice when myself and my law partner went to lunch with the Marcottes, on a couple of occasions, you know, we demanded to pay because he paid so much.

But it might have been one in 50 that we would pay.

Q Were you familiar with a restaurant called the Courthouse Cafe? Used to be called Whiteside.

A Yeah. I know it as Whitesides. I don't know it has Courthouse Cafe. Whitesides, sure.

Q In fact, at the Whiteside Cafe, was there a table that was set aside for lawyers and judges to eat together because it was so regular?

A Correct.

Q I just want to ask another question. You had talked about Judge Porteous and his reputation. How was he viewed generally as a state judge?

A He was viewed in a very good light. I've probably practiced in front of well over 30 or 40 judges, and in my opinion, he was probably one of the smartest judges I was ever in front of, you know, for legal proceedings and Rules of Evidence and stuff like that.

Q And have you ever known him to do anything immoral or inappropriate?

A I never saw him do anything I thought was inappropriate, no, sir.

MR. TURLEY: Okay. Judge Bodenheimer, thank you for your time, and I can pass the witness.

CHAIRMAN MC CASKILL: Senator Whitehouse.

SENATOR WHITEHOUSE: May I ask a question

of counsel? You have offered this witness to the Senate committee as a credible witness, I understand?

MR. TURLEY: For the knowledge that I questioned him on, yes, Senator.

SENATOR WHITEHOUSE: To explain how the bail bonds process at the Gretna courthouse was on the up and up?

MR. TURLEY: No, actually, the principal reason, Senator, was because he is cited for two critical quotes, which I dealt with at the beginning of the testimony.

SENATOR WHITEHOUSE: But you did ask him about the process at the Gretna courthouse related to bail bonds.

MR. TURLEY: Yes, sir, after -- I acknowledged that he had a plea agreement with the Marcottes. That plea agreement did not deal with all of the areas that I went into. The principal reason why we are offering him is to deal with the two quotations that are used -- most often by the House.

SENATOR WHITEHOUSE: And you offered him to offer his views on people's immoral or inappropriate behavior? That was one of your last

questions?

MR. TURLEY: Yes, that was a question, yes.

SENATOR WHITEHOUSE: Is there anything else you should bring out about this witness before this panel?

MR. TURLEY: Besides the fact that I brought out he had a plea agreement with the Marcottes, and we've previously mentioned in this case -- I'm sorry, Judge Bodenheimer is already in the record as to that problem with the Marcottes. I raised it early on so that the committee understood.

The reason that I introduced him was to deal with those two statements that are often put into the record, without context. While he was here, some of the questions I asked him about were not part of his plea agreement.

He is one of the -- you know, he was able to share some information, and while he's here -- he's been here two days, and I decided to ask him those questions as well.

SENATOR WHITEHOUSE: Madam Chairman, I apologize for the interruption but I'm -- well, never mind.

SENATOR RISCH: As long as we're going

down this line, what does that mean, a plea agreement with the Marcottes?

CHAIRMAN MC CASKILL: It wasn't a plea agreement with the Marcottes. It was a plea agreement with the prosecutor.

SENATOR RISCH: That's what I understand. Mr. Turley keeps talking about a plea agreement with the Marcottes.

CHAIRMAN MC CASKILL: It wasn't with the Marcottes. It was with -- it was with --

MR. TURLEY: Yes, the case with Judge Bodenheimer is discussed in the record. I should have said involving the Marcottes. Obviously, the Marcottes do not issue plea agreements. But the case involving Judge Bodenheimer is discussed in the record at length.

SENATOR RISCH: Was he convicted?

MR. TURLEY: It was a plea agreement so he is convicted, yes.

SENATOR RISCH: A conflicted felon?

MR. TURLEY: Yes, that's why we brought out the plea agreement. I want to note, Senator, there's no -- you know, Judge Bodenheimer is one of the people that is featured most in the record.

We felt that the committee should hear

from Judge Bodenheimer. We understand -- we understood that the House was going to ask him questions about his case. We didn't want to hide Judge Bodenheimer. We wanted to present him as a witness and to get this out.

But more importantly, he is the source for the comments made by the House that is often cited by the House, and we wanted to give that context.

We understand that the House is going to ask questions about his case, but we saw no reason to hide that. We want the committee to hear from Judge Bodenheimer. And if you have questions about -- about his involvement with the Marcottes, we have no problem with your asking it.

Madam Chair, you had said that you want a full record. Judge Bodenheimer is one of the most cited names in that record. And so we want to present him today, and you can ask him any questions that you obviously want.

VICE CHAIRMAN HATCH: Counselor --  
Counselor?

MR. TURLEY: Yes.

VICE CHAIRMAN HATCH: Senator Hatch. We all knew that, and I think you've done an excellent job of presenting what you think are issues that you

believe are in favor of the -- you know, of Judge Porteous.

So I have no problem with you bringing Judge Bodenheimer here, and he's been a particularly straightforward witness.

All of us on this panel will take into consideration all these things, and you had every right to do this. So I just wanted to make that clear so that the judge realizes that we're paying very strict attention to this matter, as we should. And we can weigh the testimony throughout the trial.

So I would just compliment you on the excellent job you've done. I expect the House to do an excellent job as well, as they have.

So I just wanted to make that point that you have every right to do this, and that you did a good job in doing that.

MR. TURLEY: Well, thank you, Vice Chair. And I would also just simply point out for the benefit of the committee, the House called ex-felons involved in the record, Wallace, Duhon, for example. And these are names that are also prominent in the record. I credit them for calling -- calling those individuals. They were asked about other issues besides their involvement.

We felt that you should hear from Judge Bodenheimer because you're going to be hearing a lot about Judge Bodenheimer. You already have.

VICE CHAIRMAN HATCH: You have every right to do that. You should not presume from my comments that they're favorable or unfavorable.

MR. TURLEY: Thank you, sir.

VICE CHAIRMAN HATCH: I'm weighing all these matters, will look at them as carefully as I can, and you have a right to represent your client the best way you possibly can.

MR. TURLEY: Thank you, Senator.

CHAIRMAN MC CASKILL: Cross-examination.

CROSS-EXAMINATION

BY MR. DUBESTER:

Q Mr. Bodenheimer, I'd like to ask you to look at the screen and see if you can recognize the document that is in front of you. And this is House Exhibit 88(d). Do you see that in front of you?

A Yes, sir.

Q And what do you recognize it as?

A That was one of the counts of the indictment to which I pled guilty.

Q Okay. Actually, sir, just to lead you a little bit, did you plead guilty to three felony



counts in a superseding bill of information filed in or about March of 2003?

A Yes, sir, this one has six. I believe I've pled guilty to three, yes, sir.

Q Okay. Well, and is this the superseding bill of information to which you pleaded guilty, if you can recognize it?

A Appears to be, yes, sir.

Q And right now, we just see the front page is the caption. That's in front of you; is that correct?

A And count 1.

MR. DUBESTER: Your Honor, I move House Exhibit 88(d) into evidence.

MR. TURLEY: No objection.

CHAIRMAN MC CASKILL: Will be received.

(House Exhibit 88(d) received.)

BY MR. DUBESTER:

Q I'd like to go to page 2 and to count 3 and ask if you can identify this count as a count to which you pleaded guilty relating to your conduct relating to the Marcottes.

A It appears to be, yes, sir.

Q I'm going to just read out loud some of the pertinent charging language so we're all on the

same page as to exactly what the charge was. Count 3 alleges -- why don't you read along with me to make sure I'm reading it correctly and then I'll ask you if I have.

A All right.

Q "From a time unknown but prior to April 1991 and continuing through thereabout June 2002 in the Eastern District of Louisiana and elsewhere the defendant Ronald D. Bodenheimer did knowingly and intentionally combine, conspire, confederate and agree with other persons known and unknown to the grand jury to knowingly and willfully devise and intend to devise a" -- "a scheme and artifice to defraud the citizens of the State of Louisiana by depriving them of Ronald D. Bodenheimer's honest and faithful services as a judge handling bail bonds in criminal cases pending in the 24th Judicial District of the State of Louisiana, performed free from deceit, bias, self-dealing and concealment in violation of Title XVIII, United States Code, Sections 1341 and 1346."

Did I read that correctly?

A Yes, sir.

Q And you see that there are two code cites referenced and that may be why there are multiple

code cites listed on the front of the page that we saw; correct?

A     Okay.

Q     Let me read into the record the overt acts. I'm going to start off with overt act 1 and ask you to read along with me. 1, "throughout the period of the conspiracy, Bodenheimer regularly set, reduced and split bonds underwritten by a Jefferson Parish bail bonding company in criminal cases pending before him and other judges, irrespective of whether he was scheduled for magistrate duty. A significant factor in Bodenheimer's decisionmaking was to accommodate the interest of the bonding company. Bodenheimer routinely set the bonds at a level requested by the bail bonding company in a manner which would tend to maximize the company's profits, that is by securing the maximum amount of premium money available from the criminal defendant and his family."

Did I read that correctly?

A     Yes, sir.

Q     Okay. Paragraph 2 involves an allegation involving the use of the mails, so I'll skip that and go on to paragraph 3. "Throughout the period of the conspiracy, the bail bonding company routinely

provided things of value to Bodenheimer which were paid for, among other ways, through the use of credit cards and payment for the credit card bills was made through the mails." This is all in violation of Title XVIII, United States Code section 371.

Is that the charge to which you pleaded guilty?

A Yes, sir.

Q And the bail bonding company we all know is the Marcottes; right?

A Sure.

Q And they just were not identified in a document because you pleaded guilty before they pleaded guilty; is that correct? Is that your understanding?

A Yes, yes, sir.

Q Okay. Now, in connection with your guilty plea, did you sign a factual statement which set forth the factual basis for your plea? Do you recall signing such a document?

A It's been like eight or nine years. I'm sure I did, but I don't recall the document. I haven't seen it since.

Q Okay. Let me show you on the screen House

Exhibit 245. Do you see a document entitled factual basis in a case captioned United States V. Ronald Bodenheimer?

A Right.

MR. DUBESTER: I'd move House Exhibit 245 into evidence.

CHAIRMAN MC CASKILL: Any objection?

MR. TURLEY: No objection.

CHAIRMAN MC CASKILL: It will be admitted.

(House Exhibit 245 received.)

BY MR. DUBESTER:

Q I'd like to go to actually page 10, which starts with count 3. I'd like to read this to you and see if this is the factual basis to which you pleaded.

"If this case were to proceed to trial, the government would prove that Defendant Ronald D. Bodenheimer, a Louisiana district court judge, conspired with the owners and employees of a Jefferson Parish bail bonding company and others known and unknown to devise and intend to devise a scheme and artifice to defraud and to deprive the citizens of the State of Louisiana of Bodenheimer's honest and faithful services free from deceit, bias, self-dealing and concealment. Bodenheimer did so by

using his position as a judge to enrich himself by setting, reducing and splitting bonds in various criminal matters pending before him, as well as other judges, on terms most advantageous to the bail bonding company, in exchange for things of value, including meals, trips to resorts, campaign contributions, home improvements and other things of values."

Then we go on to some of the specifications. At the bottom it starts with the -- some prefatory language that you're under surveillance, and going on to page 11 of paragraph 1, it further alleges or the statement further provides that "This surveillance confirmed that Bodenheimer regularly set, reduced and split bonds in criminal cases pending before him and other judges, irrespective of whether he was scheduled for magistrate duty. The bonds were routinely set at a level requested by the bail bonding company which would tend to maximize their profit by securing the maximum amount of premium money available from the criminal defendant and his family. Bodenheimer made himself available to handle bonding matters for the bail bonding company on a 24/7 basis."

Then it goes on to talk a little bit about

the use of the mails.

Going on to paragraph 2, the factual basis now reads, "the bail bonding company routinely purchased lunches, drinks and dinners for Bodenheimer, and in 1999, paid for a trip to the Beau Rivage casino for Bodenheimer and his wife." It further states these were paid by credit card and the use of the mails.

Paragraph 3 states, "the bail bonding company arranged for home improvements to be made at Bodenheimer's residence in return for the advantageous handling of bond matters."

I'd like to go on to the final page here and ask if you see your signature on the top of page 12.

A Yes, sir.

Q And -- are those the facts to which you admitted to support your plea of guilty?

A I didn't write it. Those are the facts. They're not all accurate. If you go back to part 1 it says --

Q One sec, sir. Sir.

A Let me finish, sir. You asked the question. It says on or before April of 1999. I wasn't a judge before April of 1999. So the date

would have to be wrong.

I didn't write these facts. I signed it.

Q Okay. With the exception of the date, you acknowledge that you took meals, trip and home repairs from the Marcottes; is that correct? That's right in there?

A Yes.

Q And you acknowledge that that was -- in any event, you signed this statement of fact -- for the factual basis.

A Correct.

Q And you understood this was going to be a court document; is that correct?

A Correct.

Q Now, Mr. Bodenheimer, were you sentenced to prison on this count, among other counts, that you pleaded guilt to?

A Yes, sir, yes, sir.

Q And let me show you -- what prison sentence did you receive?

A 46 months, if I'm not mistaken.

Q I'd like to show you House Exhibit 88(h). And do you recognize this as the document which sets forth formally what your prison sentence is for the three counts?



A Yes, sir.

Q And going to the fine print in the middle of the page, it indicates, does it not, that the defendant is hereby committed to the custody of the bureau of prisons to be imprisoned for a term of 46 months as to counts 1, 2 and 3, to be served concurrently? That was your sentence; correct?

A Yes, sir.

Q So your sentence on count 3, in addition to counts 1 and 2, which did not involve the Marcottes, was 46 months; correct?

A I'm sorry, which --

Q Your sentence on count 3 was 46 months?

A Right.

Q Did you serve that sentence?

A Yes.

Q Okay. Now, I have a couple additional questions. Now, when Judge Porteous was confirmed as a federal district court judge, did he tell you that if he got -- if he could get confirmed, anyone can get confirmed?

A No, he didn't tell me that, but that was said in the courthouse. People would say that, yes.

Q Sir, were you interviewed by the FBI on an occasion with your -- after you pleaded guilty, were

you interviewed by the FBI?

A Yes.

Q On several occasions?

A Many occasions.

Q Okay. If the FBI -- strike that.

And there were several agents in the courtroom -- there were agents present when you were being interviewed; is that correct?

A Yes, yes.

Q And obviously, I'm reading from a write-up of that interview. And that write-up of that interview notes that you stated in that interview, "when Porteous was confirmed as a federal district court judge, he told Bodenheimer that if he could get confirmed, anyone can get confirmed."

A Counselor, if I said it, it may well have been true. I don't recall him telling me that. I do recall people saying that in the hallways of the courthouse, but I don't recall Judge Porteous telling me that. He may have. I just don't recall it. It's been eight years.

Q Well, a moment ago, sir, you were talking about Judge Porteous's reputation, talking about all the stellar things about his reputation. And -- but now you're saying that people in the hallway were

saying if he can get confirmed, anyone can get confirmed.

A Uh-huh.

Q Is that correct?

A That's correct. I remember that being said in the hallway, yes.

Q Okay. So his reputation for legal matters was fine, but his reputation for personal matters or matters of integrity or matters of lifestyle was shaky; correct?

A That's what they said. They said if Porteous can get confirmed, anybody can get confirmed. I didn't ask what they meant by that.

Q Now, you also, a moment ago -- and one of the matters -- strike that.

Mr. Turley asked you a few moments ago about Judge Porteous's reputation.

A Uh-huh.

Q You knew that Porteous had set aside the conviction to Aubrey Wallace as a favor to the Marcottes, and didn't you tell the FBI that?

A I only found out about the Aubrey case in the news. I don't recall telling them that I knew about it when it happened. I never heard of Aubrey Wallace until the news, that I can recall.

Q Didn't you tell the FBI, yes or no, words to the effect that Porteous basically reopened the case for no legitimate reason, to help Wallace and Louis Marcotte? Did you tell the FBI that?

A I don't recall saying that, no, sir.

Q Do you dispute that you told that to the FBI in an interview?

A Let me repeat myself. I don't recall saying that. I don't dispute saying it. I don't recall saying it.

Q Do you recall telling the FBI that you've seen Judge Porteous on the bench after he had been drinking at lunch?

A Yes.

Q Now, after --

A Let me rephrase that. That's not really true. I don't recall telling them that, but yes, I've seen him go to lunch, have a drink and go back on the bench, yes, sir, that is true. I don't recall saying that, but yes, that is true.

Q Did -- after Judge Porteous said nice things about the Marcottes to you, did you after that start going out to eat with Marcotte and Porteous, including Marcotte's girlfriend and your wife, and from there on have continued meals or

dinners or socialize with Louis Marcotte?

A Later on down the road, yes, sir.

Q Did you overhear Marcotte and Porteous having discussions about how to counter criticism waged against Porteous for splitting bonds?

A I don't recall, but I wouldn't deny that I said that. I don't recall it at this particular point, though.

Q Do you recall that Porteous was criticized for letting people out of jail for less than the value of the bond, Marcotte and Porteous discussed defending the split bond by stating it avoided prison overcrowding matters, Porteous and Marcotte maintained a split bond was still a valid bond?

Do you -- is that a fair assessment of your recollection?

A All of that is true. I just don't recall saying it. But all of that is true.

Q Okay. Now, a couple just loose ends at this point. Again, you recall Mr. Turley asking you questions about puffing up Judge's -- Judge Porteous's reputation as a great judge and so forth. Didn't Judge Porteous have a reputation -- hadn't you -- let me start that question over.

Hadn't you heard -- did you state to the

FBI in your interview the following concerning -- which goes right -- concerning Porteous's reputation? And I'm reading, "Bodenheimer would describe Porteous as corrupt because any time certain lawyers were in Porteous's court, a verdict in that lawyer's favor was assured, which constituted corruption in Bodenheimer's mind. Bodenheimer had heard that type of corruption had continued in Porteous's federal courtroom with Gardner and Levenson and with Amato & Creely to a lesser extent. Bodenheimer heard about a big case Gardner had won in Porteous's court about one year ago."

Did you tell the FBI that?

A I -- I could not have told them that I saw any corruption in Judge Porteous's federal court. I have never set foot in Judge Porteous's federal court. I've never seen him try a case in federal court.

Q But hadn't you heard that -- rumors or people saying that --

A Yes, sir, if you let me finish, yes, I heard that.

Q Right.

A But your statement was didn't I tell the

FBI that that happened. I couldn't have. I was never in his court. But yes, I heard those things.

Q And the essence of the rumors that you had heard was that Porteous would steer or direct big --

MR. TURLEY: I need to make an objection. I believe counsel is asking for the essence of a rumor, for the witness to testify to.

CHAIRMAN MC CASKILL: I'll sustain that objection.

BY MR. DUBESTER:

Q Well, I want to just make sure that you understand that I'm saying this is what you've heard, not what you saw firsthand. Just so we're clear about that.

A Sure.

Q Did you tell the FBI, and I'm quoting, "Bodenheimer would describe Porteous as corrupt because any time certain lawyers were in Porteous's court, a verdict in that lawyer's favor was assured, which constituted corruption in Bodenheimer's mind. Bodenheimer had heard that type of corruption" to continue -- "continued in Porteous's federal courtroom" -- did you say that to the FBI?

A I already answered that I heard that, yes, but I had never been in his courtroom in federal

court.

MR. DUBESTER: I have no other questions of Mr. Bodenhaimer.

MR. TURLEY: We do.

REDIRECT EXAMINATION

BY MR. TURLEY:

Q Thank you, Judge Bodenhaimer. That was very useful examination by the House, and we would now like to follow up on it.

A Yes, sir.

Q Judge Bodenhaimer, that was a pretty extensive plea agreement that the House just took you through, wasn't it?

A Yes, sir.

Q There's a lot of allegations there; right?

A Yes, sir.

Q Judge Bodenhaimer, who asked you to Washington to testify? Was it the defense or the House?

A It was the House. I call it the government.

Q So you were scheduled to testify as a House witness?

A Yes, sir.

Q What were you told was the purpose of your



testimony?

A You want me to tell you what --

Q Yeah. What were you told? It's not privileged. What were you told was the purpose of your testimony for the House?

A I was -- I told them as a guy who had handled cases, I didn't see what I offered to the government, why was I coming. And I was told something to the effect of that the strength of my testimony was to bolster Louis Marcotte, because they, meaning the House attorneys, had no faith in his credibility by itself, they wanted me to bolster it.

Q And who told you that?

MR. SCHIFF: Objection, Madam Chair. I don't think that's accurate, and --

MR. TURLEY: Excuse me, I'm asking a witness a factual question of nonprivileged nature. The government just on cross-examination trashed this witness because of his past criminal history.

We are responding by asking him who --

CHAIRMAN MC CASKILL: Who trashed, the House managers?

MR. TURLEY: No, it's not privileged. Does the government have an evidentiary objection?

CHAIRMAN MC CASKILL: What is the basis of your objection, relevance?

MR. SCHIFF: Yes.

CHAIRMAN MC CASKILL: I don't -- the hour is late --

MR. TURLEY: May I respond?

CHAIRMAN MC CASKILL: Okay. Let me -- the hour is late, everyone is tired. We've a long day. I think this committee can understand why this witness was put on the stand, without either party telling us why. Both sides had a reason, that there was something that they could elicit that was helpful to their case. There are things you elicited that were helpful to your case, there were things that the House elicited that were helpful to their case.

I don't think anything is going to be gained, this is not a trial, nothing is going to be gained by you trying to get to the motives of the other side's lawyers or investigators as to why they're offering this witness.

We can see why they offered this witness. You can see -- we can see why you wanted this witness. And I don't -- we're not a jury here. We've watched all of this, and we understand exactly

why Judge Bodenheimer is here.

So I think you ought to limit your redirect to whatever was covered on cross-examination that would be appropriate and not get into what the motives of any of the lawyers are as to why they're asking witnesses to testify. I don't think it's relevant, and I -- I would ask you to rephrase the question.

MR. TURLEY: Madam Chair, if I can respond to the objection that was made. We did not raise these issues on direct.

CHAIRMAN MC CASKILL: No, no, no, let me interrupt you.

MR. TURLEY: For the record?

CHAIRMAN MC CASKILL: Let me interrupt you, Counselor. You can have a chance to make a record. You put this witness on as a character witness. I listened to you do it.

Once you put a witness on as a character witness, you open the door to that witness's character. You had the right to go through and go through his plea agreement and explain before the House had an opportunity, you could have done that. You kind of decided to gloss over it, and they came back and hammered you on it.

MR. TURLEY: Yes.

CHAIRMAN MC CASKILL: That is what happens in an adversarial proceeding.

MR. TURLEY: We expected them to hammer us on it. Can I explain?

CHAIRMAN MC CASKILL: You opened this door.

MR. TURLEY: Yes.

CHAIRMAN MC CASKILL: He testified as to the judge's character. His character is now an issue. That's a very basic rule of jurisprudence.

MR. TURLEY: Right. That's exactly right. Can we explain? Can we get on the record to put our position on it?

CHAIRMAN MC CASKILL: You may.

MR. TURLEY: We most certainly opened the door, and the House walked through it. We opened the door and put this man on the stand, a man who was called by the House. The House came back, and this was a concern from Senator Whitehouse as well, and said how dare you put this guy on the stand, look at his credibility, look at his character, and look what he pled to.

That allows us, because they challenged his credibility, it allows us to ask who called him

and why. And that's all I'm asking.

CHAIRMAN MC CASKILL: No, it does not. It does not. You put the witness on the stand.

MR. TURLEY: Right.

CHAIRMAN MC CASKILL: I'm not going to get into preparation for this trial as to what the various parties talked to witnesses about outside of this room. I'm not going to do it. It's not relevant. It's wasting our time.

MR. TURLEY: All right.

CHAIRMAN MC CASKILL: It's not helpful. It's not helpful to you. It's not helpful to Judge Porteous. I think this witness had some valuable information to Judge Porteous. I think he added some information that is helpful to the record. I think also the House had every right to impeach his credibility, and they have done that.

MR. TURLEY: We expected them to impeach. That's what we expected.

CHAIRMAN MC CASKILL: So move on.

MR. TURLEY: We can't respond to the impeachment?

CHAIRMAN MC CASKILL: Absolutely you can respond to it, but not getting into the motives of the lawyers who have asked -- originally asked this

witness to appear. You cannot get into the lawyers' motives.

BY MR. TURLEY:

Q Judge Bodenheimer, I'm not allowed to ask you why the House called you. You were called as a House witness, however, and then canceled, were you not?

A I was told that they were not going to call me, I was released. And in fact, I almost made it out the building before you told me to stay, you wanted me.

Q And then -- and you say we put you on our witness list?

A Yes.

Q I'd like to ask you now -- we can't talk about what the prosecutors told you about why you were being called. Let me at least respond to some of the questions about Wrinkled Robe.

A Okay.

Q It was a pretty big indictment that Mr. Dubester took you through.

A Right.

Q Was that all part of the Wrinkled Robe investigation?

A That's what they called it, yes, sir.

Q Yeah. Did you overlap with Judge Porteous when he was a state judge?

A What do you mean by overlap?

Q Was he a state judge when you were a state judge?

A No.

Q Was it your understanding, as someone who was involved in that Wrinkled Robe investigation, whether they also looked at Judge Porteous?

A That the federal government looked at him? Sure.

Q Investigated him?

A Yes, sir.

Q Did they talk to you about Judge Porteous?

A Obviously. It was in some of the -- I think they call them 302s they just mentioned to you, sure.

Q How many interviews do you think you've had about Judge Porteous with the FBI, the House, all these other people?

A 30, 40.

Q Was Judge Porteous ever charged in Wrinkled Robe?

A No, sir.

Q By the way, are you testifying under

immunity today?

A No, sir.

Q And you understand you're testifying under oath; correct?

A Yes, sir.

Q My understanding is that we're not allowed to go any further than that, so we will --

CHAIRMAN MC CASKILL: Let's make the record clear. You can something as far as you'd like -- you can go as far as you'd like as long as you're not bringing in irrelevant materials such as who said what to who about preparing for this case.

You can ask the witness any question you'd like, Counselor. I'm not limiting your redirect, other than it's late and I want to try to keep you on track.

But if you have more questions to ask this witness, you are more than welcome to do that.

MR. TURLEY: The only questions I have are about how this witness was intended to be used. It was not relevant until the Government came back and challenged his credibility. In a court of law, we would be allowed to ask him of how he was intended to be used, and we were not allowed to ask that, and I understand. And that's all the questions that we



have.

CHAIRMAN MC CASKILL: Okay. That's terrific.

Do the members of the panel have questions?

VICE CHAIRMAN HATCH: Well, if I can just make a comment, as I said, I think both sides have done an excellent job here.

CHAIRMAN MC CASKILL: I agree.

VICE CHAIRMAN HATCH: And you can -- we can deduce from what we've heard whatever we determine. And that's all I care to say about it.

THE WITNESS: Senator, I've been out here for like two days, and I left my father, who is 93 years old, 93 in November, who I care for. May I make a statement to the Senate?

CHAIRMAN MC CASKILL: Sure.

THE WITNESS: And I understand, I did what I did, the indictment says what it says, and I was convicted of three felonies and I went to prison for 46 months.

Prior to that, I was a prosecutor for 22 -- for 20 years. I had more people, as a prosecutor, on death row than any prosecutor in Louisiana.

In those 20 years, I was never once accused of any impropriety. I was voted the outstanding prosecutor in the state of Louisiana on two, maybe three different occasions, and I was voted the outstanding judge in Louisiana all three years that I sat.

I made mistakes, and I paid for my mistakes. But don't think it goes back through my whole career. My career before that was unblemished and it was unblemished for a reason. Okay? Thank you.

CHAIRMAN MC CASKILL: Do any senators have questions?

Senator Risch?

EXAMINATION

BY SENATOR RISCH:

Q Briefly. Mr. Bodenheimer, what was the gap in time between the time that Judge Porteous took the federal bench and you took the state bench? What was the gap?

A I think -- well, when was he sworn in, can you tell me that, Senator? When was he sworn in as a federal judge?

MR. TURLEY: I can represent it was 1994.

THE WITNESS: And I took the bench in

1999, five years later.

BY SENATOR RISCH:

Q And we've heard about the social relationship, the going to lunch, traveling and what have you, between Judge Porteous and the Marcottes while he was on the state bench, and then his secretary testified that it tapered off after he went to the federal bench. And then we heard from you that your relationship picked up with the Marcottes, you would go to lunch with them and go on these trips and things.

Who was taking care of the Marcottes between the time he left the bench and the time that you took the bench?

A I have no idea.

SENATOR RISCH: Thank you.

CHAIRMAN MC CASKILL: Anyone else have questions? I have a question.

EXAMINATION

BY CHAIRMAN MC CASKILL:

Q You have a bunch of Senators up here who spent time as prosecutors.

A Yes, sir -- yes, ma'am.

Q I certainly respect your time as a prosecutor.

A Thank you.

Q But I have to ask you this question.

A I don't mind.

Q The indictment involved more than just the allegations of you taking things of value from the Marcottes. It also involved you pleading guilty to a conspiracy to actually plant drugs on someone you disagreed with in order to cause them harm.

A That's what the indictment -- but actually, if you look at the charge, it was conspiracy to distribute. The factual basis didn't talk about planting drugs and all that kind of stuff, but --

Q Was there or was there not a videotaped -- excuse me, a taped conversation where it was very clear that you wanted to do harm to someone who was complaining about your business?

A That is true.

Q And involving planting drugs on them so they would get in trouble with a prosecutor?

A Yes, ma'am, it is true, I got angry and I did something stupid. But before that plan could be carried out, I told them stop, do not do it. I backed out.

Q I wanted to be clear.

A Yes.

CHAIRMAN MC CASKILL: Thank you. And I think --

SENATOR RISCH: Madam Chairman, which I take one more short run at this?

EXAMINATION

BY SENATOR RISCH:

Q I find what you said troubling, but the one that troubles me worse is that you pled guilty to these poor people that got arrested, and I understand they got arrested, but they were people of humble means that you conspired to raise the cost to them of getting their family out of jail.

I find that particularly troubling.

A Never did that. We never raised it so that they couldn't get out of jail. One of the factors in state court that you have to consider on setting bonds is the person's ability to make a bond. So very often, the attorneys or the bail bondsman would come to us and say this person can make a 5000, 10,000, 15,000. That was something that by law we were supposed to consider.

If they could make a 15,000, then we would make them make the 15,000.

I never, ever said he can make a 15, well,

make him make a 25. It never worked that way.

Q I hear what you're saying. And I understand the process. And it appears to me the bail bandsmen came to you, they had already interviewed the family, they knew what they could get out of the family. And according to the indictment, you and the bail bondsman conspired to see that the family would have to pay the maximum you could possibly soak out of them. That's what I get out of this. Am I wrong?

A But that's what the statute says. I'm to consider what the -- what the person can put up as a bond. If it's a shoplifting for a guy who is on SSI, the bond is going to be low. If it's a shoplifting for a millionaire, the bond is going to be high.

I'm supposed to consider the wherewithal of the defendant to place a bond. It's what the statute says.

CHAIRMAN MC CASKILL: I think we're done. Everyone has done a great job so far. Let me just announce to all of you, we're on schedule.

MR. TURLEY: I'm sorry, Madam Chair, we don't know about Petalas and whether we will be hearing from him.

CHAIRMAN MC CASKILL: The committee voted and he will not be subpoenaed.

MR. TURLEY: So he will not appear as one of our witnesses?

CHAIRMAN MC CASKILL: He will not appear. And the vote was 11 -- excuse me, I can't say what the vote was. The lawyers behind me just told me I can't tell you what the vote was. But there was a decision by the committee not to issue those subpoenas -- that subpoena.

We will be here at 8:00 in the morning, from 8:00 to 9:30. We'll break at 9:30 until 11:00, because too many committee members that have to go to committees where they must vote on a business session of those committees.

We are on schedule, and if you have any changes in your witness list tomorrow, Mr. Turley, if you would let us know before you leave tonight so we can make adjustments to the schedule.

And I want to really thank you for your patience today. This has been a very long day, and we've gotten an awful lot done, and I want to thank the members of the committee and all of the lawyers and parties for being as of good cheer as you've been and working as hard as you are. You both are

doing a very good job.

MR. SCHIFF: Madam Chair, may I ask if -- counsel certainly has every right to, but if the witnesses are going to be called in the order, at least the first few witnesses, just so we'll know who to prepare for in the morning, if counsel knows?

MR. TURLEY: I'll simply note that this is information that the House declined to give us previously. But we would certainly be able to send them an e-mail as to the first couple of witnesses. We'll try to resolve that so that the House knows.

CHAIRMAN MC CASKILL: Let me just read the witness list I have for the record. I have Pardo, Barliant, Beaulieu, Ciolino, Griffin, Barnett and Levenson.

MR. TURLEY: The Senate --

CHAIRMAN MC CASKILL: And Gardner, excuse me. We have to do Gardner tomorrow.

MR. TURLEY: Yes.

CHAIRMAN MC CASKILL: We have to do Gardner tomorrow. So that's the list I've got for tomorrow. Ambitious, but we'll do our best.

(Whereupon, at 7:54 p.m., the proceedings were adjourned, to be reconvened at 8:00 a.m., on Thursday, September 16, 2010.)



## C O N T E N T S

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
CHARLES GARDNER GEYH				
by Mr. Turley		833		
by Mr. Baron			854	
by Chair McCaskill	860			
by Vice Chair Hatch	863			
by Senator Udall	865			
RHONDA F. DANOS				
by Mr. Schiff	868		895	
by Mr. Schwartz		881		
by Senator Shaheen	898			
by Senator Whitehouse	899			
BOBBY PHILIP HAMIL, JR.				
by Mr. Damelin	902		955	
by Mr. Meitl		932		
DE WAYNE G. HORNER				
by Mr. Dubester	959		1056	
by Mr. O'Connor		1019		1064
by Senator Risch	1066			
by Senator Barrasso	1067			

-- continued --

## C O N T E N T S (Continued)

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
CLAUDE C. LIGHTFOOT				
by Mr. Goodlatte	1071		1167	
by Mr. O'Connor		1101		
by Senator Shaheen	1178			
by Senator Whitehouse	1180			
by Senator Risch	1181			
DUNCAN W. KEIR				
by Ms. Konar	1182			
by Mr. Walsh		1202		
TIMOTHY A. PORTEOUS				
by Mr. Schwartz	1224			
by Mr. Schiff		1246		
by Senator Klobuchar	1251			
RONALD D. BODENHEIMER				
by Mr. Turley	1252		1310	
by Mr. Dubester		1294		
by Senator Risch	1320/1323			
by Chair McCaskill	1321			

-- continued --

## E X H I B I T S

NUMBER	DESCRIPTION	RECEIVED
	Exhibit 69(i)	914
	Exhibit 69(b), Pages 297 through 301	920
	HP Exhibit 69(b)	924
	Exhibit 69(b), Pages PORT492, PORT493 and PORT494	929
	House Exhibit 337	1002
	House Exhibit 4	1024
	Porteous Exhibits 1003, 1004 and 1005	1032
	House Exhibit 6(b)	1037
	Porteous Exhibit 1108	1052
	Porteous Exhibit 1109	1054
	House Exhibit 5	1058
	Porteous Exhibit 1100(b)	1127
	Porteous Exhibit 1064	1128
	Porteous Exhibit 1100(c)	1129
	House Exhibit 128	1131
	Porteous Exhibit 1100(d)	1133
	Porteous Exhibit 1100(z)	1153
	House Exhibit 343	1158
	House Exhibits 125, 126, 127, 133, 141, 145, 148, 339 and 340	1177
	House Exhibit 88(d)	1295
	House Exhibit 245	1299